

ceed” are omitted as unnecessary. The words “outside the United States, or in Alaska or Hawaii” are substituted for “outside the continental limits of the United States or in Alaska”.

In subsection (b), the words “Transportation . . . may be provided” are substituted for “may be moved”. The words “an employee . . . for more than 28 days in a status listed in section 5561(5)(A)–(E) of this title” are substituted for “person . . . for a period of thirty days or more in any status listed in section 2 of this Act” for clarity and to conform to the definitions in section 5561(2) and (5). In paragraph (1), the words “the employee” are substituted for “any such person”. In paragraph (3), the words “head of the agency concerned or his designee” are substituted for “head of the department concerned or by such person as he may designate”.

In subsection (c), the word “employee” is substituted for “person”. The words “transportation . . . may be provided under this section only when” are substituted for “movement . . . provided for herein may be authorized only in cases where”.

In subsection (d), the words “on request of a dependent may be provided under . . . only” are substituted for “No . . . shall be authorized pursuant to . . . upon application by dependents unless”. The words “condition and” are omitted as surplusage.

In subsection (e)(1), the words “reimbursement for” are substituted for “the payment in money of amounts equal to”.

In subsection (f), the word “employee” is substituted for “person”. The words “such time as” are omitted as surplusage.

In subsection (g), the words “United States” are substituted for “Government” to conform to the style of this title. The word “employee” is substituted for “person”. The words “under . . . prescribed” are substituted for “in accordance with . . . issued”.

In subsection (h), the words “under subsection (g) of this section” are substituted for “under authority of this section”.

In subsection (i), the words “the provisions of” are omitted as surplusage. Paragraph (3) is substituted for “the Federal Tort Claims Act (60 Stat. 842–847), as amended,” to reflect the correct citation of that Act.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5564(a)	50 App.: 1012.	Oct. 19, 1965, Pub. L. 89–271, 79 Stat. 992.

Only that portion of the source law applicable to civilian officers and employees and their dependents is codified in this section. That portion of the source law applicable to members of the uniformed services and their dependents is codified in 37 U.S.C. 554(a) by section 5(2) of this bill.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–316 substituted “Administrator of General Services” for “General Accounting Office” wherever appearing.

1991—Subsec. (i)(1). Pub. L. 102–190 substituted “6522, or 9712” for “4713, 6522, 9712, or 9713”.

§ 5565. Agency review

(a) When an employee has been in a missing status almost 12 months and no official report of his death or the circumstances of his continued absence has been received by the head of the agency concerned, he shall have the case fully reviewed. After that review and the end of 12 months in a missing status, or after any later

review which shall be made when warranted by information received or other circumstances, the head of the agency concerned or his designee may—

- (1) direct the continuance of his missing status, if there is a reasonable presumption that the employee is alive; or
- (2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of the ending of crediting pay and allowances and settlement of accounts. That date is—

- (1) the day after the day on which the 12 months in a missing status ends; or
- (2) a day determined by the head of the agency concerned or his designee when the missing status has been continued under subsection (a) of this section.

(c) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A termination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 492.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	50A U.S.C. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §5, 56 Stat. 145. Dec. 24, 1942, ch. 828, §1 (3d par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88–428, §1(4), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to §1005 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §5 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(b)	50A U.S.C. 1005 (less 1st and 2d sentences).	
(c)	50A U.S.C. 1009(b) (as applicable to §1005).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §5); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words “When an employee has been in a missing status almost 12 months” are substituted for “When the twelve months’ period from the date of commencement of absence is about to expire in any case of a person entitled under section 2 of this Act to receive or be credited with pay and allowances” for clarity and to conform to the definitions in section 5561(2) and (5). For the same reasons, the words “the end of 12 months in a missing status” are substituted for “the twelve months’ absence shall have expired”. The words “or his designee” are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in section 5566(a). In paragraph (1), the words “his” and “employee” are substituted for “person’s” and “person”.

In subsection (b), the words “under subsection (a) of this section” are inserted for clarity. The words “and payment of death gratuities” are omitted as inapplicable to civilian officers and employees. In paragraph (1), the words “the day on which the 12 months in a missing status ends” are substituted for “the day of expiration

of an absence of twelve months” for consistency with subsection (a) of this section and in view of the definition in section 5561(5). In paragraph (2), the words “or his designee” are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words “under subsection (a) of this section” are substituted for “as hereinbefore authorized”.

In subsection (c), the word “sole” is omitted as surplusage and in view of the provisions of section 5566(h). The word “deemed” is supplied to evidence the legal fiction provided by the words “is a ‘person’ under this Act” in 50A U.S.C. 1009(a). The words “or his designee” are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words “agencies of the United States” are substituted for “departments of the Government”. The words “This section does not entitle” are substituted for “*Provided*, That nothing in this section shall be construed as conferring . . . any right”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5566. Agency determinations

(a) The head of the agency concerned or his designee may make any determination necessary to administer this subchapter, and when so made it is conclusive as to—

- (1) death or finding of death;
- (2) the fact of dependency under this subchapter;
- (3) any other status covered by this subchapter;
- (4) an essential date, including one on which evidence or information is received by the head of the agency concerned; and
- (5) whether information received concerning an employee is to be construed and acted on as an official report of death.

(b) When the head of the agency concerned receives information that he considers to conclusively establish the death of an employee, he shall take action thereon as an official report of death, notwithstanding an earlier action relating to death or status of the employee. After the end of 12 months in a missing status prescribed by section 5565 of this title, the head of the agency concerned or his designee shall make a finding of death when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that an employee in a missing status is dead.

(c) The head of the agency concerned or his designee may determine the entitlement of an employee to pay and allowances under this subchapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that an employee captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) When circumstances warrant the reconsideration of a determination made under this subchapter, the head of the agency concerned or his designee may change or modify it.

(e) When the account of an employee has been charged or debited with an allotment paid under this subchapter, the amount so charged or debited shall be recredited to the account of the employee if the head of the agency concerned or

his designee determines that the payment was induced by fraud or misrepresentation to which the employee was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from the pay and allowances of an employee for the period he is in a missing status may not be collected from the allottee as an overpayment when payment was caused by delay in receiving evidence of death. An allotment paid for a period after the end, under this subchapter or otherwise, of entitlement to pay and allowances may not be collected from the allottee or charged against the pay of a deceased employee when payment was caused by delay in receiving evidence of death.

(g) The head of the agency concerned or his designee may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 493.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	50A U.S.C. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680. Apr. 4, 1953, ch. 17, §1(c), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.
	50A U.S.C. 1010.	Mar. 7, 1942, ch. 166, §10, 56 Stat. 145. July 1, 1944, ch. 371, §6, 58 Stat. 681. Aug. 14, 1964, Pub. L. 88-428, §1(7), 78 Stat. 437.
(b)	50A U.S.C. 1009(a) (3d and 4th sentences).	
(c)	50A U.S.C. 1009(a) (6th sentence, less last proviso). 50A U.S.C. 1014 (as applicable to §1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §9(a) (1st proviso of 6th sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(d)	50A U.S.C. 1009(a) (7th sentence).	
(e)	50A U.S.C. 1009(a) (last proviso of 6th sentence).	
(f)	50A U.S.C. 1009(a) (8th sentence).	
(g)	50A U.S.C. 1009(a) (9th sentence).	
(h)	50A U.S.C. 1009(b) (as applicable to §1009).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §9); added Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words “head of the agency concerned or his designee” are substituted for “head of the